

REMARKS

Claims 1 through 9 continue to be in the case.

New claim 10 is introduced.

New claim 10 is based on the language of claim 2.

Restriction request filed 5/31/2007 is withdrawn.

The restriction request filed 5/31/2007 is withdrawn because it did not address a single general inventive concept, under PCT Rule 13.1. Please see the new restriction requirement below.

The withdrawal of the Restriction request filed May 31, 2007 is very much appreciated.

The Office Action refers to Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim 1, drawn to product.

Group II, claim(s) 2-9, drawn to method of etching.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I lack the technical features: that the polymer removed from the side walls; and the predetermined etch profile is with the defined slope angle beta.

Applicants respectfully disagree.

Claim 1 of Group I is now amended to read “the polymer is removed at the side walls”. Thus Group I now contains polymer removal in contrast to the allegation of the Office Action.

New claim 10 depending on claim 1 and belonging to Group I contains the language “until the predetermined etched profile with the defined slope angle β has been reached.”. Therefore Group I now also contains language concerning a “predetermined etched profile with the defined slope angle β ” in contrast to the allegation of the Office Action.

A telephone call was made to Mr. Kasper on 9/17/07 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

Applicants elect the invention of group I.

The elected invention encompasses claims 1 and 10.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

The election of the group I is being made with traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicants position is that the alleged two inventions are so closely related that they should be prosecuted together.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicants are not aware at this time of any specific need to make changes in the inventorship of this application.

Reconsideration of all outstanding rejections is respectfully requested.

All claims as presently submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,
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